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REMARKS

Claims 1-3 and 5-21 are pending in the present application. New claim 22 has been added, leaving claims 1-3 and 5-22 for consideration. Reconsideration and allowance of the claims is respectfully requested in view of the following remarks.

Claim Rejections Under 35 U.S.C. § 102(e)

A. Claims 1-21 stand rejected under 35 U.S.C. § 102(e), as allegedly anticipated by U.S. Patent No. 6,346,574 to Nishihara, U.S. Patent No. 6,423,768 to Khouiri, or U.S. Patent Application No. 2003/01395504 to Miebach. Applicants respectfully traverse these rejections.

1. **U.S. Patent No. 6,346,574 to Nishihara (hereinafter "Nishihara")**

Applicants respectfully assert that Nishihara cannot anticipate the independent claims because Nishihara does not disclose a thermoplastic resin composition consisting essentially of a thermoplastic resin selected from the group consisting of a polyphenylene ether resin, a polystyrene resin, an acrylonitrile-butadiene-styrene resin, and mixtures thereof; and a flame retardant composition consisting essentially of an organo phosphate and a polyhydric alcohol. Rather, Nishihara teaches compositions requiring a retardance-imparting additive of a substituted aromatic vinyl resin having acid salt groups as the substituents on the aromatic rings. The salt groups are relatively easy to remove and can become crosslinked points. (Col. 2, lines 57-60) Clearly a crosslinked composition differs significantly in physical characteristics from an uncrosslinked composition. Thus it is clear that the inclusion of the retardance-imparting additive of Nishihara in the composition described by the instant claims would alter the basic and material nature of the claimed composition. For similar reasons, Nishihara does not disclose a method for the manufacture of a flame retardant thermoplastic resin composition extrudate comprising mixing a thermoplastic resin selected from the group consisting of a polyphenylene ether resin with a flame retardant composition consisting essentially of an organo phosphate compound and a polyhydric alcohol compound to form a flame retardant mixture. It therefore does not satisfy Applicants' claim limitations.

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Accordingly, Applicants request withdrawal of the rejection.

2. U.S. Patent No. 6,423,768 to Khouri (hereinafter "Khouri")

Khouri fails to anticipate Applicants' claims because Khouri teaches polymer-organoclay composite compositions that generally include (A) at least one thermoplastic polymer bearing amine groups such as a polyamide, (B) at least one organoclay generally containing a quaternary ammonium ion including at least two alkyl or cycloalkyl groups, (C) a thermoplastic resin different from (A) such as polyphenylene ether, (D) an impact modifying agent, and (E) a compatibilizing agent. The compatibilizing agent of Khouri, cannot be included within the limitations of the claim since the presence of a compatibilizing agent would materially affect the composition by reacting with one or more of the claimed thermoplastic resins, thus resulting in a change of functionality, polarity and potentially miscibility. As such Khouri fails to disclose a thermoplastic resin composition consisting essentially of a thermoplastic resin selected from the group consisting of a polyphenylene ether resin, a polystyrene resin, an acrylonitrile-butadiene-styrene resin, and mixtures thereof; and a flame retardant composition consisting essentially of an organo phosphate and a polyhydric alcohol.

Accordingly, it is respectfully requested that the rejection be withdrawn as applied to Claims 1-3 and 5-21.

3. U.S. Patent Application No. 2003/01395504 to Miebach (hereinafter "Miebach")

Miebach generally describes flame retardant compositions that include at least one aromatic polycarbonate, at least one silicone source, at least one boron source, and optionally, at least one member selected from the group consisting of an anti-drip agent, a second thermoplastic resins which is not a polycarbonate, and a rubber modified graft copolymer. The presence of polycarbonate in the instantly claimed composition would materially affect the nature of the composition by affecting physical characteristics such as ductility. Because of this, Miebach fails to disclose a thermoplastic resin composition consisting essentially of a

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thermoplastic resin selected from the group consisting of a polyphenylene ether resin, a polystyrene resin, an acrylonitrile-butadiene-styrene resin, and mixtures thereof; and a flame retardant composition consisting essentially of an organo phosphate and a polyhydric alcohol.

For at least this reason, it is respectfully request that the rejection under 35 USC §102(e) applied to Claims 1-3 and 5-21 be withdrawn.

B. Claims 1, 4, 6, 8-11, 13-16, and 18-21 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 6,150,443 to Nodera. Applicants respectfully traverse this rejection.

4. U.S. Patent No. 6,150,443 to Nodera (hereinafter "Nodera")

Nodera fails to disclose a composition including a thermoplastic resin composition consisting essentially of a thermoplastic resin selected from the group consisting of a polyphenylene ether resin, a polystyrene resin, an acrylonitrile-butadiene-styrene resin, and mixtures thereof; and a flame retardant composition consisting essentially of an organo phosphate and a polyhydric alcohol. Nodera requires a polycarbonate resin in its compositions. Similar to the above discussion with regard to Meibach, the presence of polycarbonate would materially affect the instantly claimed composition.

Accordingly, Nodera fails to anticipate Claims 1, 4, 6, 8-11, 13-16, and 18-21 and withdrawal of the rejection under section 102 is now requested for at least this reason.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-21 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Nodera and Nishihara. Applicants respectfully traverse this rejection.

Nishihara and Nodera, individually or in combination, fail to establish a prima facie case of obviousness. Nodera is directed to polycarbonate resin compositions. There is no teaching or suggestion in the prior art of thermoplastic composition consisting essentially of a thermoplastic resin selected from the group consisting of a polyphenylene ether resin; and a

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flame retardant composition consisting essentially of an organo phosphate and a polyhydric alcohol as claimed by Applicants. All of Nodera's compositions are directed to the flame retardant polycarbonate compositions having good impact resistance. Any disclosure directed to other resins is in addition to the polycarbonate already present within its compositions. Since Nodera positively recites polycarbonate in its compositions, there is no motivation or suggestion to modify its compositions to remove the polycarbonate.

Likewise, Nishihara fails to establish a prima facie case of obviousness. Nishihara is directed to thermoplastic compositions comprised of components (A), (B) and (C). Component (A) is fire retardance-imparting additive comprising a substituted aromatic vinyl resin having acid salt groups as the substituents (Nishihara, Col. 2, ll. 55-57); component (B) is a thermoplastic resin; and component (C) is a halogen containing phosphorous or inorganic fire retardant (Nishihara, Col. 6, ll. 1-3). Additional components can be added, however, the resulting thermoplastic compositions will always have components (A), (B) and (C), including the substituted aromatic vinyl resin having acid salt groups.

In view of the foregoing, Applicants respectfully request the reconsideration and withdrawal of the rejection of Claims 1-21 under 35 U.S.C. § 103(a) over Nodera or Nishihara.

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It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 07-0862 maintained by Assignee.

Respectfully submitted,

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